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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,337	03/02/2005	Kenichi Nakamura	NAKA0102PUSA	8947
22045	7590	12/11/2007		
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			EXAMINER HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER
			3751	
			MAIL DATE	DELIVERY MODE
			12/11/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/526,337

Applicant(s)

NAKAMURA ET AL.

Examiner

Khoa D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/20/07.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the second eater spouting section as recited in new claim 18.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

New claim 18 recites the limitations "*the second eater spouting section*". Such recitations render the claim indefinite since it does not have detailed supports in the original, instant specification. Since the claim does not clearly set forth the metes and bounds of the patent protection desired, the scope of the claim is unascertainable.

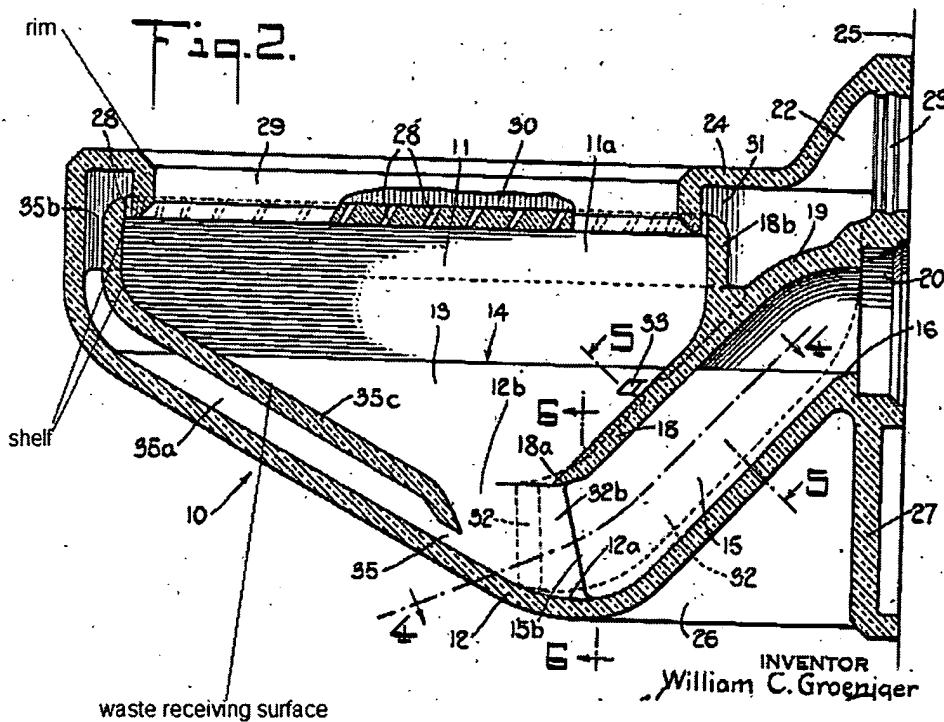
### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 8, 10, 11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Groeniger (2158362).



Regarding claim 1, the Groeniger reference discloses a flush toilet that uses a prescribed amount of cleansing water stored in a cleansing water tank to cleanse the toilet and discharge waste. The flush toilet includes a bowl (at 10) having a bowl-shaped waste receiving surface, a rim (*see above illustrations*) constituting an upper edge portion whose inner surface overhangs inward and a shelf (*see above illustrations*) formed between the rim and the waste receiving surface (Fig. 2), and a drainage channel (at 15) whose inlet is connected to the bottom of the bowl for discharging waste. A first water spouting section (at 32a on the left side) for spouting cleansing water onto the shelf of the bowl to form a

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vortex; a second water spouting section (at 32a on the right side) for spouting cleansing water onto shelf of the bowl in the same direction as the swirling direction of the vortex; a first water channel (at 32 on the left side) for supplying cleansing water from the cleansing water tank to the first water spouting section; and a second water channel (at 32 on the right side) for supplying cleansing water from the cleansing water tank to the second water spouting section.

Regarding claim 2, as schematically shown in Figure 1, the second water channel makes a U-turn to communicate with the second water spouting section.

Regarding claims 3 and 8, the flush toilet further comprises a jet hole section (at 35) arranged to spout water toward the inlet (at 15b) of the drainage channel, wherein the amount of water spouted from the jet hole section is greater than the total amount of water spouted at the rim from the first water spouting section and second water spouting section (page 3, lines 13-17).

Regarding claims 4 and 5 (as best understood), as schematically shown in Figure 1, wherein the first water spouting section is installed on one side of the bowl relative to its fore-aft center axis at a point near a point where the radius of curvature of the bowl changes from a smaller value to a larger value and the second water spouting section is installed on the other side of the bowl at a point near a point where the radius of curvature of the bowl changes from a larger value to a smaller value, and wherein the amount of water spouted at the rim from the first water spouting section is inherently greater than the amount of water spouted at the rim from second water spouting section.

Regarding claims 10 and 11, as schematically shown in Figure 1, wherein the shelf of the bowl is formed to vary in width in a manner that causes the main stream of the cleansing water spouted the first water spouting section to flow toward the inlet of the drainage channel, wherein the width of the shelf of the bowl is formed wider at regions on opposite lateral sides of the bowl relative to its fore-aft center axis and formed narrower at the front end region of the bowl.

Claims 18 presumably recites limitations that are substantially similar to the limitations recited in claims 1 and 5 which have been rejected as discussed *supra*.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 7, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groeniger (as discussed *supra*).

Regarding claims 6, even though the Groeniger reference does not specifically disclose that the amount of water from 0.6 to 2.3 liters spouted from the spouting sections as claimed, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such amount of water for the spouting sections since discovering an optimum value for

water flow of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 7, even though the Groeniger reference does not specifically disclose that the amount of spouted water of at least 1 liter as claimed, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such amount of water for the spouting sections since discovering an optimum value for water flow of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 9, even though the Groeniger reference does not specifically disclose that the capacity of the water tank is 6 liters, the amount of spouted water from 1-3 liters from the spouting sections, and the amount of water from the jet hole is 5-3 liters as claimed, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such amount of water for the tank, spouting sections and the jet hole since discovering an optimum value for water flow of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 12, as schematically shown in Figure 2, the shelf of the bowl (constituted by the slope portion at 10) is sloped downward. Even though the Groeniger reference does not specifically disclose that the angle of inclination of 0 to 15 degrees as claimed, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such angle

of inclination for the shelf of the bowl since discovering an optimum value for an downward angle of a result effective variable involves only routine skill in the art.

*In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Response to Amendment***

8. Applicant's amendment, filed on 09/19/07, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

### ***Response to Arguments***

9. Applicant's arguments filed on 09/19/07 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

Applicant asserts that the Groeniger reference does not teach a shelf "which extends about the circumference of the bowl immediately below the overhanging shelf surface." See Remarks section, page 17, lines 13-16. The examiner disagrees.

Firstly, it is noted that applicant does not provide any structural limitation for the "shelf" which patentably distinguishes over the shelf of the Groeniger reference. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Secondly, as shown in *the above illustration* and stated in the above rejection, does disclose a flush toilet including a bowl (at 10) having a bowl-shaped waste receiving surface, a rim, a shelf (*see above illustrations*) formed between the rim and the waste receiving surface (Fig. 2), a first water spouting section (at 32a on the left



side) for spouting cleansing water onto the shelf of the bowl to form a vortex; a second water spouting section (at 32a on the right side) for spouting cleansing water onto shelf of the bowl in the same direction as the swirling direction of the vortex.

Therefore, the Groeniger reference does teach applicant's invention as claimed.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

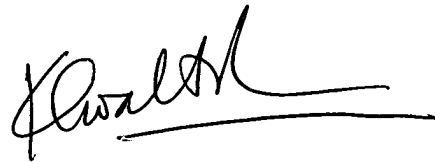
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'K. Huynh', with a horizontal line drawn underneath it.

Khoa D. Huynh  
Primary Examiner  
Art Unit 3751

HK